

**Filed 2/12/15 by Clerk of Supreme Court  
IN THE SUPREME COURT  
STATE OF NORTH DAKOTA**

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2015 ND 22

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Kayla Rath,

Plaintiff

v.

Mark Rath,

Defendant and Appellant

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No. 20140291

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Appeal from the District Court of Burleigh County, South Central Judicial District, the Honorable David E. Reich, Judge.

AFFIRMED.

Per Curiam.

Mark Rath, self represented, 1021 W. Saint Benedict Drive, Bismarck, ND 58501, defendant and appellant; on brief.

Kayla Rath, plaintiff; no appearance.

**Rath v. Rath**

**No. 20140291**

**Per Curiam.**

[¶1] Mark Rath appeals from a district court order denying his Rule 60(b), N.D.R.Civ.P., motion to vacate the judgment and grant relief from all judicial rulings in his divorce.

[¶2] Mark Rath and Kayla Rath were divorced in January 2013. Mark Rath appealed the district court divorce judgment. The appeal was voluntarily dismissed. He also appealed two contempt orders. See Rath v. Rath, 2013 ND 243, 840 N.W.2d 656; Rath v. Rath, 2014 ND 171, 852 N.W.2d 377. On April 22, 2014, Mark Rath made a motion under N.D.R.Civ.P. 60(b) to vacate the divorce judgment and all orders in his case, arguing the district court failed to adhere to the rules, statutes and judicial obligations of the North Dakota and federal constitutions. The district court denied the motion, finding that Mark Rath had no standing to assert his parents' constitutional rights and that the motion was barred by res judicata. Mark Rath appeals, arguing the judgment and orders are void because they violate his due process and First Amendment rights.

[¶3] We summarily affirm under N.D.R.App.P. 35.1(a)(1) and (7). Matter of Estate of Schmidt, 1997 ND 244, ¶ 10, 572 N.W.2d 430 (explaining prior dismissal of an appeal renders the order final and res judicata of all issues therein); Wetch v. Wetch, 539 N.W.2d 309, 311 (N.D. 1995) (explaining res judicata precludes claims raised in prior actions between the same parties, which were resolved by final judgment in a court of competent jurisdiction); Rath, 2013 ND 243, 840 N.W.2d 656; Rath, 2014 ND 171, 852 N.W.2d 377.

[¶4] Gerald W. VandeWalle, C.J.  
Daniel J. Crothers  
Lisa Fair McEvers  
Carol Ronning Kapsner  
Dale V. Sandstrom